

HOUSE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NOS. 1268 & 1211

AN ACT

2 To repeal sections 285.300, 288.030, 288.036,
3 288.038, 288.040, 288.050, 288.060, 288.110,
4 288.121, 288.128, 288.270, 288.290, 288.310,
5 and 288.330, RSMo, and to enact in lieu
6 thereof eighteen new sections relating to
7 employees, with penalty provisions and an
8 emergency clause.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
10 AS FOLLOWS:

11 Section A. Section 285.300, 288.030, 288.036, 288.038,
12 288.040, 288.050, 288.060, 288.110, 288.121, 288.128, 288.270,
13 288.290, 288.310, and 288.330, RSMo, are repealed and eighteen
14 new sections enacted in lieu thereof, to be known as 285.300,
15 288.030, 288.036, 288.038, 288.040, 288.050, 288.060, 288.110,
16 288.121, 288.128, 288.270, 288.290, 288.310, 288.330, 288.385,
17 288.395, 288.396, and 288.397, to read as follows:

18 285.300. 1. Every employer doing business in the state
19 shall require each newly hired employee to fill out a federal W-4
20 withholding form. A copy of each withholding form or an
21 equivalent form containing data required by section 285.304 which

1 may be provided in an electronic or magnetic format, shall be
2 sent to the department of revenue by the employer within twenty
3 days after the date the employer hires the employee or in the
4 case of an employer transmitting a report magnetically or
5 electronically, by two monthly transmissions, if necessary, not
6 less than twelve days nor more than sixteen days apart. For
7 purposes of this section, the date the employer hires the
8 employee shall be the earlier of the date the employee signs the
9 W-4 form or its equivalent, or the first date the employee
10 reports to work, or performs labor or services. Such forms shall
11 be forwarded by the department of revenue to the division of
12 child support enforcement on a weekly basis and the information
13 shall be entered into the database, to be known as the "State
14 Directory of New Hires". The information reported shall be
15 provided to the National Directory of New Hires established in 42
16 U.S.C. section 653, other state agencies or contractors of the
17 division as required or allowed by federal statutes or
18 regulations. The division of employment security shall cross-
19 check Missouri unemployment compensation recipients against any
20 federal new hire database or any other database containing
21 Missouri or other states' wage information which is maintained by
22 the federal government on a weekly basis.

23 2. Any employer that has employees who are employed in two
24 or more states and transmits reports magnetically or

electronically may comply with subsection 1 of this section by:

(1) Designating one of the states in which the employer has employees as the designated state that such employer shall transmit the reports; and

(2) Notifying the secretary of Health and Human Services of such designation.

288.030. 1. As used in this chapter, unless the context clearly requires otherwise:

(1) "Appeals tribunal" means a referee or a body consisting of three referees appointed to conduct hearings and make decisions on appeals from administrative determinations, petitions for reassessment, and claims referred pursuant to subsection 2 of section 288.070;

(2) "Base period" means the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year;

(3) "Benefit year" means the one-year period beginning with the first day of the first week with respect to which an insured worker first files an initial claim for determination of such worker's insured status, and thereafter the one-year period beginning with the first day of the first week with respect to which the individual, providing the individual is then an insured worker, next files such an initial claim after the end of the individual's last preceding benefit year;

1 (4) "Benefits" means the money payments payable to an
2 insured worker, as provided in this chapter, with respect to such
3 insured worker's unemployment;

4 (5) "Calendar quarter" means the period of three
5 consecutive calendar months ending on March thirty-first, June
6 thirtieth, September thirtieth, or December thirty-first;

7 (6) "Claimant" means an individual who has filed an initial
8 claim for determination of such individual's status as an
9 insured worker, a notice of unemployment, a certification for
10 waiting week credit, or a claim for benefits;

11 (7) "Commission" means the labor and industrial relations
12 commission of Missouri;

13 (8) "Common paymaster" means two or more related
14 corporations in which one of the corporations has been designated
15 to disburse remuneration to concurrently employed individuals of
16 any of the related corporations;

17 (9) "Contributions" means the money payments to the
18 unemployment compensation fund required by this chapter,
19 exclusive of interest and penalties;

20 (10) "Decision" means a ruling made by an appeals tribunal
21 or the commission after a hearing;

22 (11) "Deputy" means a representative of the division
23 designated to make investigations and administrative
24 determinations on claims or matters of employer liability or to

1 perform related work;

2 (12) "Determination" means any administrative ruling made
3 by the division without a hearing;

4 (13) "Director" means the administrative head of the
5 division of employment security;

6 (14) "Division" means the division of employment security
7 which administers this chapter;

8 (15) "Employing unit" means any individual, organization,
9 partnership, corporation, common paymaster, or other legal
10 entity, including the legal representatives thereof, which has
11 or, subsequent to June 17, 1937, had in its employ one or more
12 individuals performing services for it within this state. All
13 individuals performing services within this state for any
14 employing unit which maintains two or more separate
15 establishments within this state shall be deemed to be employed
16 by a single employing unit for all the purposes of this chapter.
17 Each individual engaged to perform or to assist in performing the
18 work of any person in the service of an employing unit shall be
19 deemed to be engaged by such employing unit for all the purposes
20 of this chapter, whether such individual was engaged or paid
21 directly by such employing unit or by such person, provided the
22 employing unit had actual or constructive knowledge of the work;

23 (16) "Employment office" means a free public employment
24 office operated by this or any other state as a part of a state

1 controlled system of public employment offices including any
2 location designated by the state as being a part of the one-stop
3 career system;

4 (17) "Equipment" means a motor vehicle, straight truck,
5 tractor, semi-trailer, full trailer, any combination of these and
6 any other type of equipment used by authorized carriers in the
7 transportation of property for hire;

8 (18) "Fund" means the unemployment compensation fund
9 established by this chapter;

10 (19) "Governmental entity" means the state, any political
11 subdivision thereof, any instrumentality of any one or more of
12 the foregoing which is wholly owned by this state and one or more
13 other states or political subdivisions and any instrumentality of
14 this state or any political subdivision thereof and one or more
15 other states or political subdivisions;

16 (20) "Initial claim" means an application, in a form
17 prescribed by the division, made by an individual for the
18 determination of the individual's status as an insured worker;

19 (21) "Insured work" means employment in the service of an
20 employer;

21 (22) As to initial claims filed after December 31, 1990,
22 "insured worker" means a worker who has been paid wages for
23 insured work in the amount of one thousand dollars or more in at
24 least one calendar quarter of such worker's base period and total

1 wages in the worker's base period equal to at least one and
2 one-half times the insured wages in that calendar quarter of the
3 base period in which the worker's insured wages were the highest,
4 or in the alternative, a worker who has been paid wages in at
5 least two calendar quarters of such worker's base period and
6 whose total base period wages are at least one and one-half times
7 the maximum taxable wage base, taxable to any one employer, in
8 accordance with [subdivision (1)] subsection 2 of section
9 288.036. For the purposes of this definition, "wages" shall be
10 considered as wage credits with respect to any benefit year, only
11 if such benefit year begins subsequent to the date on which the
12 employing unit by which such wages were paid has become an
13 employer;

14 (23) "Lessor", in a lease, means the party granting the use
15 of equipment, with or without a driver to another;

16 (24) "Misconduct", means an act of wanton or willful
17 disregard of the employer's interest, a deliberate violation of
18 the employer's rules, a disregard of standards of behavior which
19 the employer has the right to expect of his or her employee, or
20 negligence in such degree or recurrence as to manifest
21 culpability, wrongful intent or evil design, or show an
22 intentional and substantial disregard of the employer's interest
23 or of the employee's duties and obligations to the employer;

24 (25) "Referee" means a representative of the division

1 designated to serve on an appeals tribunal;

2 [(25)] (26) "State" includes, in addition to the states of
3 the United States of America, the District of Columbia, Puerto
4 Rico, the Virgin Islands, and the Dominion of Canada;

5 [(26)] (27) "Temporary help firm", means a firm that hires
6 its own employees and assigns them to clients to support or
7 supplement the clients' workforce in work situations such as
8 employee absences, temporary skill shortages, seasonal workloads,
9 and special assignments and projects;

10 (28) "Temporary employee", means an employee assigned to
11 work for the clients of a temporary help firm;

12 (29) (a) An individual shall be deemed "totally
13 unemployed" in any week during which the individual performs no
14 services and with respect to which no wages are payable to such
15 individual;

16 (b) An individual shall be deemed "partially unemployed" in
17 any week of less than full-time work if the wages payable to such
18 individual for such week do not equal or exceed the individual's
19 weekly benefit amount plus twenty dollars;

20 (c) An individual's "week of unemployment" shall begin the
21 first day of the calendar week in which the individual registers
22 at an employment office except that, if for good cause the
23 individual's registration is delayed, the week of unemployment
24 shall begin the first day of the calendar week in which the

1 individual would have otherwise registered. The requirement of
2 registration may by regulation be postponed or eliminated in
3 respect to claims for partial unemployment or may by regulation
4 be postponed in case of a mass layoff due to a temporary
5 cessation of work;

6 ~~[(27)]~~ (30) "Waiting week" means the first week of
7 unemployment for which a claim is allowed in a benefit year or if
8 no waiting week has occurred in a benefit year in effect on the
9 effective date of a shared work plan, the first week of
10 participation in a shared work unemployment compensation program
11 pursuant to section 288.500.

12 2. The Missouri average annual wage shall be computed as of
13 June thirtieth of each year, and shall be applicable to the
14 following calendar year. The Missouri average annual wage shall
15 be calculated by dividing the total wages reported as paid for
16 insured work in the preceding calendar year by the average of
17 mid-month employment reported by employers for the same calendar
18 year. The Missouri average weekly wage shall be computed by
19 dividing the Missouri average annual wage as computed in this
20 subsection by fifty-two.

21 288.036. 1. "Wages" means all remuneration, payable or
22 paid, for personal services including commissions and bonuses
23 and, except as provided in subdivision ~~[(8)]~~ (7) of this section,
24 the cash value of all remuneration paid in any medium other than

1 cash. Gratuities, including tips received from persons other
2 than the employing unit, shall be considered wages only if
3 required to be reported as wages pursuant to the Federal
4 Unemployment Tax Act, 26 U.S.C. Sec. 3306, and shall be, for the
5 purposes of this chapter, treated as having been paid by the
6 employing unit. Severance pay shall be considered as wages [to
7 the extent required pursuant to the Federal Unemployment Tax Act,
8 26 U.S.C. Section 3306(b)]. Vacation pay and holiday pay shall
9 be considered as wages for the week with respect to which it is
10 payable. The term "wages" shall not include:

11 (1) [For the purposes of determining the amount of
12 contributions due and contribution rates, that part of the
13 remuneration for employment paid to an individual by an employer
14 or the employer's predecessors which is in excess of seven
15 thousand dollars for the calendar years 1988 through 1992, seven
16 thousand five hundred dollars for the calendar year 1993, eight
17 thousand five hundred dollars for the calendar years 1994, 1995
18 and 1996, eight thousand dollars for calendar year 1997, and
19 eight thousand five hundred dollars for the calendar year 1998,
20 and the state taxable wage base as determined in subsection 2 of
21 this section for calendar year 1999, and each calendar year
22 thereafter, unless that part of the remuneration is subject to a
23 tax pursuant to a federal law imposing a tax against which credit
24 may be taken for contributions required to be paid into a state

1 unemployment fund; except that:

2 (a) In addition to the taxable wage, as defined in this
3 subdivision, if on December 31, 1995, or on any December
4 thirty-first thereafter, the balance in the unemployment
5 insurance trust fund, less any federal advances, is less than one
6 hundred million dollars, then the amount of the taxable wage then
7 in effect shall be increased by five hundred dollars for all
8 succeeding calendar years;

9 (b) If on December 31, 1995, or any December thirty-first
10 thereafter, the balance in the unemployment insurance trust fund,
11 less any federal advances, is two hundred and fifty million
12 dollars or more, then the amount of the taxable wage then in
13 effect shall be reduced by five hundred dollars, but not below
14 that part of the remuneration which is subject to a tax pursuant
15 to a federal law imposing a tax against which credit may be taken
16 for contributions required to be paid into a state unemployment
17 fund;

18 (2)] The amount of any payment made (including any amount
19 paid by an employing unit for insurance or annuities, or into a
20 fund, to provide for any such payment) to, or on behalf of, an
21 individual under a plan or system established by an employing
22 unit which makes provision generally for individuals performing
23 services for it or for a class or classes of such individuals, on
24 account of:

1 (a) Sickness or accident disability, but in case of
2 payments made to an employee or any of the employee's dependents
3 this paragraph shall exclude from the term "wages" only payments
4 which are received pursuant to a workers' compensation law; or

5 (b) Medical and hospitalization expenses in connection with
6 sickness or accident disability; or

7 (c) Death;

8 [(3)] (2) The amount of any payment on account of sickness
9 or accident disability, or medical or hospitalization expenses in
10 connection with sickness or accident disability, made by an
11 employing unit to, or on behalf of, an individual performing
12 services for it after the expiration of six calendar months
13 following the last calendar month in which the individual
14 performed services for such employing unit;

15 [(4)] (3) The amount of any payment made by an employing
16 unit to, or on behalf of, an individual performing services for
17 it or his or her beneficiary:

18 (a) From or to a trust described in 26 U.S.C. 401(a) which
19 is exempt from tax pursuant to 26 U.S.C. 501(a) at the time of
20 such payment unless such payment is made to an employee of the
21 trust as remuneration for services rendered as such an employee
22 and not as a beneficiary of the trust; or

23 (b) Under or to an annuity plan which, at the time of such
24 payments, meets the requirements of section 404(a)(2) of the

1 Federal Internal Revenue Code (26 U.S.C.A. Sec. 404);

2 [(5)] (4) The amount of any payment made by an employing
3 unit (without deduction from the remuneration of the individual
4 in employment) of the tax imposed pursuant to section 3101 of the
5 Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an
6 individual with respect to remuneration paid to an employee for
7 domestic service in a private home or for agricultural labor;

8 [(6)] (5) Remuneration paid in any medium other than cash
9 to an individual for services not in the course of the employing
10 unit's trade or business;

11 [(7)] (6) Remuneration paid in the form of meals provided
12 to an individual in the service of an employing unit where such
13 remuneration is furnished on the employer's premises and at the
14 employer's convenience, except that remuneration in the form of
15 meals that is considered wages and required to be reported as
16 wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C.
17 Sec. 3306 shall be reported as wages as required thereunder;

18 [(8)] (7) For the purpose of determining wages paid for
19 agricultural labor as defined in paragraph (b) of subdivision (1)
20 of subsection 12 of section 288.034 and for domestic service as
21 defined in subsection 13 of section 288.034, only cash wages paid
22 shall be considered;

23 [(9)] (8) Beginning on October 1, 1996, any payment to, or
24 on behalf of, an employee or the employee's beneficiary under a

1 cafeteria plan, if such payment would not be treated as wages
2 pursuant to the Federal Unemployment Tax Act.

3 2. The increases or decreases to the state taxable wage
4 base for calendar year [1999] 2005, and each calendar year
5 thereafter, shall be determined by the provisions within this
6 subsection. On January 1, 2005, the state taxable wage base for
7 calendar year [1999, and] 2005 shall be eleven thousand dollars
8 for the balance of the calendar year. The state taxable wage
9 base for each calendar year thereafter[,] shall be determined by
10 the preceding September thirtieth balance of the unemployment
11 compensation trust fund, less any outstanding federal Title XII
12 advances received pursuant to section 288.330, or if the fund is
13 not utilizing moneys advanced by the federal government, then
14 less the principal, interest, and administrative expenses related
15 to bonds issued under section 288.330, or the principal,
16 interest, and administrative expenses related to financial
17 agreements under subdivision (17) of subsection 2 of section
18 288.330, or the principal, interest, and administrative expenses
19 related to a combination of bonds and financial agreements. When
20 the September thirtieth unemployment compensation trust fund
21 balance, less any outstanding federal Title XII advances received
22 pursuant to section 288.330, is:

23 (1) Less than, or equal to, three hundred fifty million
24 dollars, then the wage base shall increase by [five hundred] one

1 ~~thousand~~ dollars; or

2 (2) ~~Four~~ Five hundred ~~fifty~~ million or more, then the
3 state taxable wage base for the subsequent calendar year shall be
4 decreased by five hundred dollars. In no event, however, shall
5 the state taxable wage base increase beyond ~~ten~~ eleven thousand
6 ~~five hundred~~ dollars, or decrease to less than seven thousand
7 dollars.

8 For any calendar year, the state taxable wage base shall not be
9 reduced to less than that part of the remuneration which is
10 subject to a tax under a federal law imposing a tax against which
11 credit may be taken for contributions required to be paid into a
12 state unemployment compensation trust fund. Nothing in this
13 section shall be construed to prevent the wage base from
14 increasing or decreasing by increments of five hundred dollars.

15 288.038. With respect to initial claims filed ~~during~~
16 calendar years 1998, 1999, 2000 and 2001] after the effective
17 date of this section and each calendar year thereafter, the
18 "maximum weekly benefit amount" means four percent of the total
19 wages paid to an eligible insured worker during that quarter of
20 the worker's base period in which the worker's wages were the
21 highest, but the maximum weekly benefit amount shall not exceed
22 ~~two hundred five dollars in the calendar year 1998, two hundred~~
23 ~~twenty dollars in the calendar year 1999, two hundred thirty-five~~

1 dollars in the calendar year 2000, and] two hundred fifty dollars
2 in the calendar [year 2001, and] years 2004 and 2005, two hundred
3 fifty-five dollars for calendar years 2006 and 2007, and two
4 hundred sixty dollars for calendar year 2008 and each calendar
5 year thereafter. If such benefit amount is not a multiple of one
6 dollar, such amount shall be reduced to the nearest lower full
7 dollar amount.

8 288.040. 1. A claimant who is unemployed and has been
9 determined to be an insured worker shall be eligible for benefits
10 for any week only if the deputy finds that:

11 (1) The claimant has registered for work at and thereafter
12 has continued to report at an employment office in accordance
13 with such regulations as the division may prescribe;

14 (2) The claimant is able to work and is available for work.
15 No person shall be deemed available for work unless such person
16 has been and is actively and earnestly seeking work. Upon the
17 filing of an initial or renewed claim, and prior to the filing of
18 each weekly claim thereafter, the deputy shall notify each
19 claimant of the number of work search contacts required to
20 constitute an active search for work. No person shall be
21 considered not available for work, pursuant to this subdivision,
22 solely because he or she is a substitute teacher or is on jury
23 duty. A claimant shall not be determined to be ineligible
24 pursuant to this subdivision because of not actively and

1 earnestly seeking work if:

2 (a) The claimant is participating in training approved
3 pursuant to Section 236 of the Trade Act of 1974, as amended, (19
4 U.S.C.A. Sec. 2296, as amended); [or]

5 (b) The claimant is temporarily unemployed through no fault
6 of his or her own and has a definite recall date within eight
7 weeks of his or her first day of unemployment; however, upon
8 application of the employer responsible for the claimant's
9 unemployment, such eight-week period may be extended at the
10 discretion of the director; or

11 (c) The claimant is participating in a state-approved drug
12 or alcohol treatment program;

13 (3) The claimant has reported in person to an office of the
14 division as directed by the deputy, but at least once every four
15 weeks, except that a claimant shall be exempted from the
16 reporting requirement of this subdivision if:

17 (a) The claimant is claiming benefits in accordance with
18 division regulations dealing with partial or temporary total
19 unemployment; or

20 (b) The claimant is temporarily unemployed through no fault
21 of his or her own and has a definite recall date within eight
22 weeks of his or her first day of unemployment; or

23 (c) The claimant resides in a county with an unemployment
24 rate, as published by the division, of ten percent or more and in

1 which the county seat is more than forty miles from the nearest
2 division office;

3 (d) The director of the division of employment security has
4 determined that the claimant belongs to a group or class of
5 workers whose opportunities for reemployment will not be enhanced
6 by reporting in person, or is prevented from reporting due to
7 emergency conditions that limit access by the general public to
8 an office that serves the area where the claimant resides, but
9 only during the time such circumstances exist.

10 Ineligibility pursuant to this subdivision shall begin on the
11 first day of the week which the claimant was scheduled to claim
12 and shall end on the last day of the week preceding the week
13 during which the claimant does report in person to the division's
14 office;

15 (4) Prior to the first week of a period of total or partial
16 unemployment for which the claimant claims benefits he or she has
17 been totally or partially unemployed for a waiting period of one
18 week. No more than one waiting week will be required in any
19 benefit year. [The one-week waiting period shall become
20 compensable after unemployment during which benefits are payable
21 for nine consecutive weeks.] No week shall be counted as a week
22 of total or partial unemployment for the purposes of this
23 subsection unless it occurs within the benefit year which

1 includes the week with respect to which the claimant claims
2 benefits;

3 (5) The claimant has made a claim for benefits;

4 (6) The claimant is participating in reemployment services,
5 such as job search assistance services, [as directed by the
6 deputy if the claimant has been determined to be likely to
7 exhaust regular benefits and to need reemployment services
8 pursuant to a profiling system established by the division,]
9 unless the deputy determines that:

10 (a) The individual has completed such reemployment
11 services; or

12 (b) There is justifiable cause for the claimant's failure
13 to participate in such reemployment services.

14 For the purposes of complying with this subsection the claimant
15 shall at a minimum register with a Missouri career center and
16 participate in vocational counseling services offered by the
17 state in order to fulfill the requirement of participation in
18 reemployment services.

19 2. A claimant shall be ineligible for waiting week credit
20 or benefits for any week for which the deputy finds he or she is
21 or has been suspended by his or her most recent employer for
22 misconduct connected with his or her work. Suspensions of four
23 weeks or more shall be treated as discharges.

1 3. (1) Benefits based on "service in employment", defined
2 in subsections 7 and 8 of section 288.034, shall be payable in
3 the same amount, on the same terms and subject to the same
4 conditions as compensation payable on the basis of other service
5 subject to this law; except that:

6 (a) With respect to service performed in an instructional,
7 research, or principal administrative capacity for an educational
8 institution, benefits shall not be paid based on such services
9 for any week of unemployment commencing during the period between
10 two successive academic years or terms, or during a similar
11 period between two regular but not successive terms, or during a
12 period of paid sabbatical leave provided for in the individual's
13 contract, to any individual if such individual performs such
14 services in the first of such academic years (or terms) and if
15 there is a contract or a reasonable assurance that such
16 individual will perform services in any such capacity for any
17 educational institution in the second of such academic years or
18 terms;

19 (b) With respect to services performed in any capacity
20 (other than instructional, research, or principal administrative
21 capacity) for an educational institution, benefits shall not be
22 paid on the basis of such services to any individual for any week
23 which commences during a period between two successive academic
24 years or terms if such individual performs such services in the

1 first of such academic years or terms and there is a contract or
2 a reasonable assurance that such individual will perform such
3 services in the second of such academic years or terms;

4 (c) With respect to services described in paragraphs (a)
5 and (b) of this subdivision, benefits shall not be paid on the
6 basis of such services to any individual for any week which
7 commences during an established and customary vacation period or
8 holiday recess if such individual performed such services in the
9 period immediately before such vacation period or holiday recess,
10 and there is reasonable assurance that such individual will
11 perform such services immediately following such vacation period
12 or holiday recess;

13 (d) With respect to services described in paragraphs (a)
14 and (b) of this subdivision, benefits payable on the basis of
15 services in any such capacity shall be denied as specified in
16 paragraphs (a), (b), and (c) of this subdivision, to any
17 individual who performed such services at an educational
18 institution while in the employ of an educational service agency,
19 and for this purpose the term "educational service agency" means
20 a governmental agency or governmental entity which is established
21 and operated exclusively for the purpose of providing such
22 services to one or more educational institutions.

23 (2) If compensation is denied for any week pursuant to
24 paragraph (b) or (d) of subdivision (1) of this subsection, to

1 any individual performing services at an educational institution
2 in any capacity (other than instructional, research or principal
3 administrative capacity), and such individual was not offered an
4 opportunity to perform such services for the second of such
5 academic years or terms, such individual shall be entitled to a
6 retroactive payment of the compensation for each week for which
7 the individual filed a timely claim for compensation and for
8 which compensation was denied solely by reason of paragraph (b)
9 or (d) of subdivision (1) of this subsection.

10 4. (1) A claimant shall be ineligible for waiting week
11 credit, benefits or shared work benefits for any week for which
12 he or she is receiving or has received remuneration exceeding his
13 or her weekly benefit amount or shared work benefit amount in the
14 form of:

15 (a) Compensation for temporary partial disability pursuant
16 to the workers' compensation law of any state or pursuant to a
17 similar law of the United States;

18 (b) A governmental or other pension, retirement or retired
19 pay, annuity, or other similar periodic payment which is based on
20 the previous work of such claimant to the extent that such
21 payment is provided from funds provided by a base period or
22 chargeable employer pursuant to a plan maintained or contributed
23 to by such employer; but, except for such payments made pursuant
24 to the Social Security Act or the Railroad Retirement Act of 1974

1 (or the corresponding provisions of prior law), the provisions of
2 this paragraph shall not apply if the services performed for such
3 employer by the claimant after the beginning of the base period
4 (or remuneration for such services) do not affect eligibility for
5 or increase the amount of such pension, retirement or retired
6 pay, annuity or similar payment.

7 (2) If the remuneration referred to in this subsection is
8 less than the benefits which would otherwise be due, the claimant
9 shall be entitled to receive for such week, if otherwise
10 eligible, benefits reduced by the amount of such remuneration,
11 and, if such benefit is not a multiple of one dollar, such amount
12 shall be lowered to the next multiple of one dollar.

13 (3) Notwithstanding the provisions of subdivisions (1) and
14 (2) of this subsection, if a claimant has contributed in any way
15 to the Social Security Act or the Railroad Retirement Act of
16 1974, or the corresponding provisions of prior law, no part of
17 the payments received pursuant to such federal law shall be
18 deductible from the amount of benefits received pursuant to this
19 chapter.

20 5. A claimant shall be ineligible for waiting week credit
21 or benefits for any week for which or a part of which he or she
22 has received or is seeking unemployment benefits pursuant to an
23 unemployment insurance law of another state or the United States;
24 provided, that if it be finally determined that the claimant is

1 not entitled to such unemployment benefits, such ineligibility
2 shall not apply.

3 6. (1) A claimant shall be ineligible for waiting week
4 credit or benefits for any week for which the deputy finds that
5 such claimant's total or partial unemployment is due to a
6 stoppage of work which exists because of a labor dispute in the
7 factory, establishment or other premises in which such claimant
8 is or was last employed. In the event the claimant secures other
9 employment from which he or she is separated during the existence
10 of the labor dispute, the claimant must have obtained bona fide
11 employment as a permanent employee for at least the major part of
12 each of two weeks in such subsequent employment to terminate his
13 or her ineligibility. If, in any case, separate branches of work
14 which are commonly conducted as separate businesses at separate
15 premises are conducted in separate departments of the same
16 premises, each such department shall for the purposes of this
17 subsection be deemed to be a separate factory, establishment or
18 other premises. This subsection shall not apply if it is shown
19 to the satisfaction of the deputy that:

20 (a) The claimant is not participating in or financing or
21 directly interested in the labor dispute which caused the
22 stoppage of work; and

23 (b) The claimant does not belong to a grade or class of
24 workers of which, immediately preceding the commencement of the

1 stoppage, there were members employed at the premises at which
2 the stoppage occurs, any of whom are participating in or
3 financing or directly interested in the dispute.

4 (2) "Stoppage of work" as used in this subsection means a
5 substantial diminution of the activities, production or services
6 at the establishment, plant, factory or premises of the employing
7 unit. This definition shall not apply to a strike where the
8 employees in the bargaining unit who initiated the strike are
9 participating in the strike. Such employees shall not be
10 eligible for waiting week credit or benefits during the period
11 when the strike is in effect, regardless of diminution, unless
12 the employer has been found guilty of an unfair labor practice by
13 the National Labor Relations Board or a federal court of law for
14 an act or actions preceding or during the strike.

15 7. On or after January 1, 1978, benefits shall not be paid
16 to any individual on the basis of any services, substantially all
17 of which consist of participating in sports or athletic events or
18 training or preparing to so participate, for any week which
19 commences during the period between two successive sport seasons
20 (or similar periods) if such individual performed such services
21 in the first of such seasons (or similar periods) and there is a
22 reasonable assurance that such individual will perform such
23 services in the later of such seasons (or similar periods).

24 8. Benefits shall not be payable on the basis of services

1 performed by an alien, unless such alien is an individual who was
2 lawfully admitted for permanent residence at the time such
3 services were performed, was lawfully present for purposes of
4 performing such services, or was permanently residing in the
5 United States under color of law at the time such services were
6 performed (including an alien who was lawfully present in the
7 United States as a result of the application of the provisions of
8 Section 212(d)(5) of the Immigration and Nationality Act).

9 (1) Any data or information required of individuals
10 applying for benefits to determine whether benefits are not
11 payable to them because of their alien status shall be uniformly
12 required from all applicants for benefits.

13 (2) In the case of an individual whose application for
14 benefits would otherwise be approved, no determination that
15 benefits to such individual are not payable because of such
16 individual's alien status shall be made except upon a
17 preponderance of the evidence.

18 288.050. 1. Notwithstanding the other provisions of this
19 law, a claimant shall be disqualified for waiting week credit or
20 benefits until after the claimant has earned wages for work
21 insured pursuant to the unemployment compensation laws of any
22 state equal to ten times the claimant's weekly benefit amount if
23 the deputy finds:

24 (1) That the claimant has left work voluntarily without

1 good cause attributable to such work or to the claimant's
2 employer[; except that]. A temporary employee of a temporary
3 help firm will be deemed to have voluntarily quit employment if
4 the employee does not contact the temporary help firm for
5 reassignment prior to filing for benefits. Failure to contact
6 the temporary help firm will not be deemed a voluntary quit
7 unless the claimant has been advised of the obligation to contact
8 the firm upon completion of assignments and that unemployment
9 benefits may be denied for failure to do so. The claimant shall
10 not be disqualified:

11 (a) If the deputy finds the claimant quit such work for the
12 purpose of accepting a more remunerative job which the claimant
13 did accept and earn some wages therein;

14 (b) If the claimant quit temporary work to return to such
15 claimant's regular employer; or

16 (c) If the deputy finds the individual quit work, which
17 would have been determined not suitable in accordance with
18 paragraphs (a) and (b) of subdivision (3) of this subsection,
19 within twenty-eight calendar days of the first day worked; or

20 (d) As to initial claims filed after December 31, 1988, if
21 the claimant presents evidence supported by competent medical
22 proof that she was forced to leave her work because of pregnancy,
23 notified her employer of such necessity as soon as practical
24 under the circumstances, and returned to that employer and

1 offered her services to that employer as soon as she was
2 physically able to return to work, as certified by a licensed and
3 practicing physician, but in no event later than ninety days
4 after the termination of the pregnancy. An employee shall have
5 been employed for at least one year with the same employer before
6 she may be provided benefits pursuant to the provisions of this
7 paragraph;

8 (2) That the claimant has retired pursuant to the terms of
9 a labor agreement between the claimant's employer and a union
10 duly elected by the employees as their official representative or
11 in accordance with an established policy of the claimant's
12 employer; or

13 (3) That the claimant failed without good cause either to
14 apply for available suitable work when so directed by the deputy,
15 or to accept suitable work when offered the claimant, either
16 through the division or directly by an employer by whom the
17 individual was formerly employed, or to return to the
18 individual's customary self-employment, if any, when so directed
19 by the deputy. An offer of work shall be conclusively
20 established if an employer notifies the claimant in writing of
21 such offer by sending an acknowledgment via any form of certified
22 mail issued by the United State Postal Service stating such offer
23 to the claimant at his or her last known address. Nothing in
24 this subdivision shall be construed to limit the means by which

1 the deputy may establish that the claimant has been sufficiently
2 notified of available work.

3 (a) In determining whether or not any work is suitable for
4 an individual, the division shall consider, among other factors
5 and in addition to those enumerated in paragraph (b) of this
6 subdivision, the degree of risk involved to the individual's
7 health, safety and morals, the individual's physical fitness and
8 prior training, the individual's experience and prior earnings,
9 the individual's length of unemployment, the individual's
10 prospects for securing work in the individual's customary
11 occupation, the distance of available work from the individual's
12 residence and the individual's prospect of obtaining local work;
13 except that, if an individual has moved from the locality in
14 which the individual actually resided when such individual was
15 last employed to a place where there is less probability of the
16 individual's employment at such individual's usual type of work
17 and which is more distant from or otherwise less accessible to
18 the community in which the individual was last employed, work
19 offered by the individual's most recent employer if similar to
20 that which such individual performed in such individual's last
21 employment and at wages, hours, and working conditions which are
22 substantially similar to those prevailing for similar work in
23 such community, or any work which the individual is capable of
24 performing at the wages prevailing for such work in the locality

1 to which the individual has moved, if not hazardous to such
2 individual's health, safety or morals, shall be deemed suitable
3 for the individual;

4 (b) Notwithstanding any other provisions of this law, no
5 work shall be deemed suitable and benefits shall not be denied
6 pursuant to this law to any otherwise eligible individual for
7 refusing to accept new work under any of the following
8 conditions:

9 a. If the position offered is vacant due directly to a
10 strike, lockout, or other labor dispute;

11 b. If the wages, hours, or other conditions of the work
12 offered are substantially less favorable to the individual than
13 those prevailing for similar work in the locality;

14 c. If as a condition of being employed the individual would
15 be required to join a company union or to resign from or refrain
16 from joining any bona fide labor organization.

17 2. [Notwithstanding the other provisions of this law,] If a
18 deputy finds that a claimant has been discharged for misconduct
19 connected with the claimant's work, such claimant[, depending
20 upon the seriousness of the misconduct as determined by the
21 deputy according to the circumstances in each case,] shall be
22 disqualified for waiting week credit or benefits [for not less
23 than four nor more than sixteen weeks for which the claimant
24 claims benefits and is otherwise eligible], and no benefits shall

1 be paid nor shall the cost of any benefits be charged against any
2 employer for any period of employment within the base period,
3 until such time as the claimant has earned wages for work insured
4 under the unemployment laws of this state or other state as
5 prescribed in this section. In addition to the disqualification
6 for benefits pursuant to this provision the division may in the
7 more aggravated cases of misconduct, cancel all or any part of
8 the individual's wage credits, which were established through the
9 individual's employment by the employer who discharged such
10 individual, according to the seriousness of the misconduct. A
11 disqualification provided for pursuant to this subsection shall
12 not apply to any week which occurs after the claimant has earned
13 wages for work insured pursuant to the unemployment compensation
14 laws of any state in an amount equal to eight times the
15 claimant's weekly benefit amount. If a claimant is disqualified
16 on a second or subsequent occasion within the base period or
17 subsequent to the base period, the claimant shall be required to
18 earn wages in an amount equal to or in excess of eight times the
19 claimant's weekly benefit amount for each disqualification, and
20 such additionally required wages shall run consecutively.

21 3. [A pattern of] Absenteeism or tardiness may constitute
22 misconduct regardless of whether the last incident alone [which
23 results] resulting in the discharge constitutes misconduct.

24 4. Notwithstanding the provisions of subsection 1 of this

1 section, a claimant may not be determined to be disqualified for
2 benefits because the claimant is in training approved pursuant to
3 section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A.
4 Sec. 2296, as amended), or because the claimant left work which
5 was not "suitable employment" to enter such training. For the
6 purposes of this subsection "suitable employment" means, with
7 respect to a worker, work of a substantially equal or higher
8 skill level than the worker's past adversely affected employment,
9 and wages for such work at not less than eighty percent of the
10 worker's average weekly wage as determined for the purposes of
11 the Trade Act of 1974.

12 288.060. 1. All benefits shall be paid through employment
13 offices in accordance with such regulations as the division may
14 prescribe.

15 2. Each eligible insured worker who is totally unemployed
16 in any week shall be paid for such week a sum equal to his weekly
17 benefit amount.

18 3. Each eligible insured worker who is partially unemployed
19 in any week shall be paid for such week a partial benefit. Such
20 partial benefit shall be an amount equal to the difference
21 between his weekly benefit amount and that part of his wages for
22 such week in excess of [twenty] forty dollars, and, if such
23 partial benefit amount is not a multiple of one dollar, such
24 amount shall be reduced to the nearest lower full dollar amount.

1 [Termination pay, severance pay or] Provided further, however,
2 that an individual shall be considered to be unemployed as to
3 receipt of severance pay for any week the individual is
4 registered at as well as attending any state institution of
5 higher education or public secondary school. In addition, an
6 individual shall be considered to be unemployed as to receipt of
7 severance pay for any week the individual is registered at as
8 well as attending a labor and industrial relations commission
9 qualified vocational, educational, or training program that meets
10 commission established minimum standards. The commission shall
11 annually update and review the list of qualified programs. Pay
12 received by an eligible insured worker who is a member of the
13 organized militia for training or duty authorized by section
14 502(a)(1) of Title 32, United States Code, [or who is an elected
15 official] shall not be considered wages for the purpose of this
16 subsection.

17 4. The division shall compute the wage credits for each
18 individual by crediting him with the wages paid to him for
19 insured work during each quarter of his base period or twenty-six
20 times his weekly benefit amount, whichever is the lesser. In
21 addition, if a claimant receives wages in the form of termination
22 pay or severance pay and such payment appears in a base period
23 established by the filing of an initial claim, the claimant may,
24 at his option, choose to have such payment included in the

1 calendar quarter in which it was paid or choose to have it
2 prorated equally among the quarters comprising the base period of
3 the claim. The maximum total amount of benefits payable to any
4 insured worker during any benefit year shall not exceed
5 twenty-six times his weekly benefit amount, or thirty-three and
6 one-third percent of his wage credits, whichever is the lesser.
7 For the purpose of this section, wages shall be counted as wage
8 credits for any benefit year, only if such benefit year begins
9 subsequent to the date on which the employing unit by whom such
10 wages were paid has become an employer. The wage credits of an
11 individual earned during the period commencing with the end of a
12 prior base period and ending on the date on which he filed an
13 allowed initial claim shall not be available for benefit purposes
14 in a subsequent benefit year unless, in addition thereto, such
15 individual has subsequently earned either wages for insured work
16 in an amount equal to at least five times his current weekly
17 benefit amount or wages in an amount equal to at least ten times
18 his current weekly benefit amount.

19 5. In the event that benefits are due a deceased person and
20 no petition has been filed for the probate of the will or for the
21 administration of the estate of such person within thirty days
22 after his death, the division may by regulation provide for the
23 payment of such benefits to such person or persons as the
24 division finds entitled thereto and every such payment shall be a

1 valid payment to the same extent as if made to the legal
2 representatives of the deceased.

3 6. The division is authorized to cancel any benefit warrant
4 remaining outstanding and unpaid one year after the date of its
5 issuance and there shall be no liability for the payment of any
6 such benefit warrant thereafter.

7 7. The division may establish an electronic funds transfer
8 system to transfer directly to claimants' accounts in financial
9 institutions benefits payable to them pursuant to this chapter.
10 To receive benefits by electronic funds transfer, a claimant
11 shall satisfactorily complete a direct deposit application form
12 authorizing the division to deposit benefit payments into a
13 designated checking or savings account. Any electronic funds
14 transfer system created pursuant to this subsection shall be
15 administered in accordance with regulations prescribed by the
16 division.

17 8. The division may issue a benefit warrant covering more
18 than one week of benefits.

19 288.110. Any individual, type of organization or employing
20 unit which has acquired substantially all of the business of an
21 employer, excepting in any such case any assets retained by such
22 employer incident to the liquidation of his obligations, and in
23 respect to which the division finds that immediately after such
24 change such business of the predecessor employer is continued

1 without interruption solely by the successor, shall stand in the
2 position of such predecessor employer in all respects, including
3 the predecessor's separate account, actual contribution and
4 benefit experience, annual payrolls, and liability for current or
5 delinquent contributions, interest and penalties. If two or more
6 individuals, organizations, or employing units acquired at
7 approximately the same time substantially all of the business of
8 an employer (excepting in any such case any assets retained by
9 such employer incident to the liquidation of his obligations) and
10 in respect to which the division finds that immediately after
11 such change all portions of such business of the predecessor are
12 continued without interruption solely by such successors, each
13 such individual, organization, or employing unit shall stand in
14 the position of such predecessor with respect to the
15 proportionate share of the predecessor's separate account, actual
16 contribution and benefit experience and annual payroll as
17 determined by the portion of the predecessor's taxable payroll
18 applicable to the portion of the business acquired, and each such
19 individual, organization or employing unit shall be liable for
20 current or delinquent contributions, interest and penalties of
21 the predecessor in the same relative proportion. Further, any
22 successor under this section which was not an employer at the
23 time the acquisition occurred, shall pay contributions for the
24 balance of the current rate year at the same contribution rate as

1 the contribution rate of the predecessor whether such rate is
2 more or less than two and seven-tenths percent, provided there
3 was only one predecessor or there were only predecessors with
4 identical rates. If the predecessors' rates were not identical,
5 the division shall calculate a rate as of the date of acquisition
6 applicable to the successor for the remainder of the rate year,
7 which rate shall be based on the combined experience of all
8 predecessor employers. In the event that any successor was,
9 prior to an acquisition, an employer, and there is a difference
10 in the contribution rate established for such calendar year
11 applicable to any acquired or acquiring employer, the division
12 shall make a recalculation [as of the date of acquisition] of the
13 contribution rate applicable to any successor employer based upon
14 the combined experience of all predecessor and successor
15 employers[, which] as of the date of the acquisition, unless the
16 date of the acquisition is other than the first day of the
17 calendar quarter. If the date of any such acquisition is other
18 than the first day of the calendar quarter the division shall
19 make the recalculation of the rate on the first day of the next
20 calendar quarter after the acquisition. When the date of the
21 acquisition is other than the first day of a calendar quarter the
22 successor employer shall use its rate for the calendar quarter in
23 which the acquisition was made. The revised contribution rate
24 shall apply to employment after the [date of any such

acquisition] rate recalculation. For this purpose a calculation date different from July first may be established. When the division has determined that a successor or successors stand in the position of a predecessor employer, the predecessor's liability shall be terminated as of the date of the acquisition.

288.121. 1. On October first of each calendar year, if the average balance, less any federal advances, of the unemployment compensation trust fund of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding calendar year) is less than four hundred fifty million dollars, then each employer's contribution rate calculated for the four calendar quarters of the succeeding calendar year shall be increased by the percentage determined from the following table:

| Balance in Trust Fund | | | Percentage |
|-----------------------|----------------------|-----------------|--------------------------|
| Less Than | Equals or Exceeds | | of Increase |
| [\$400,000,000] | <u>\$450,000,000</u> | [\$350,000,000] | <u>\$400,000,000</u> 10% |
| [\$350,000,000] | <u>\$400,000,000</u> | [\$300,000,000] | <u>\$350,000,000</u> 20% |
| [\$300,000,000] | <u>\$350,000,000</u> | | 30% |

[Notwithstanding the table in this section, each employer's contribution rate calculated for the four calendar quarters of calendar year 1994 shall be increased by forty percent, instead

1 of thirty percent, as previously indicated in the table in this
2 section. After the forty percent increase, each employer's
3 contribution rate for the four calendar quarters of calendar year
4 1994 shall be increased by adding three-tenths of one percent.]
5 Beginning on January 1, 2005, and continuing until such time as
6 the trust fund balance including any outstanding indebtedness, is
7 greater than or equal to zero the contribution rate of any
8 employer who is paying the maximum contribution rate of six
9 percent shall be increased by forty percent.

10 2. Effective January 1, 2005, an employer's total
11 contribution rate shall equal the employer's base rate plus a
12 temporary solvency charge of one-tenth of one percent added to
13 the base rate plus the increase authorized under subsection 1 of
14 this section. The temporary solvency charge shall expire upon
15 the last day of the fourth calendar quarter following the
16 effective date of this section.

17 288.128. 1. In addition to all other contributions due
18 under this chapter, if the fund is utilizing moneys advanced by
19 the federal government under the provisions of 42 U.S.C.A.,
20 section 1321 pursuant to section 288.330[,]
21 or if the fund is not
22 utilizing moneys advanced by the federal government, then from
23 the proceeds of bonds issued under section 288.330, or from the
24 moneys advanced under financial agreements under subdivision (17)
of subsection 2 of section 288.330, or a combination of bond

1 proceeds and moneys advanced under financial agreements each
2 employer shall be assessed an amount solely for the payment of
3 interest due on such federal advancements, or if the fund is not
4 utilizing moneys advanced by the federal government, or in the
5 case of issuance of bonds for the payment of the principal,
6 interest, and administrative expenses related to such bonds, or
7 in the case of financial agreements for the payment of principal,
8 interest, and administrative expenses related to such financial
9 agreements, or in the case of a combination of bonds and
10 financial agreements for the payment of principal, interest, and
11 administrative expenses for both. The rate shall be determined
12 by dividing the interest due on federal advancements or if the
13 fund is not utilizing moneys advanced by the federal government,
14 then the principal, interest, and administrative expenses related
15 to bonds, or the principal, interest, and administrative expenses
16 related to financial agreements under subdivision (17) of
17 subsection 2 of section 288.330, or the principal, interest, and
18 administrative expenses related to a combination of bonds and
19 financial agreements by ninety-five percent of the total taxable
20 wages paid by all Missouri employers in the preceding calendar
21 year. Each employer's proportionate share shall be the product
22 obtained by multiplying such employer's total taxable wages for
23 the preceding calendar year by the rate specified in this
24 section. Each employer shall be notified of the amount due under

1 this section by June thirtieth of each year and such amount shall
2 be considered delinquent thirty days thereafter. The moneys
3 collected from each employer for the payment of interest due on
4 federal advances or if the fund is not utilizing moneys advanced
5 by the federal government, then the payment of principal,
6 interest, and administrative expenses related to bonds, or the
7 payment of the principal, interest, and administrative expenses
8 related to financial agreements under subdivision (17) of
9 subsection 2 of section 288.330, or the payment of the principal,
10 interest, and administrative expenses related to a combination of
11 bonds and financial agreements shall be deposited in the special
12 employment security fund.

13 2. If on December thirty-first of any year the money
14 collected under this section exceeds the amount of interest due
15 on federal advancements by one hundred thousand dollars or more,
16 then each employer's experience rating account shall be credited
17 with an amount which bears the same ratio to the excess moneys
18 collected under this section as that employer's payment collected
19 under this section bears to the total amount collected under this
20 section. Further, if on December thirty-first of any year the
21 moneys collected under this section exceed the amount of interest
22 due on the federal advancements by less than one hundred thousand
23 dollars, the balance shall be transferred from the special
24 employment security fund to the Secretary of the Treasury of the

1 United States to be credited to the account of this state in the
2 unemployment trust fund.

3 288.270. The provisions of the Wagner-Peyser Act (29
4 U.S.C.A. Sec. 49 et seq.), as amended, are hereby accepted by
5 this state and the division of employment security is hereby
6 designated and constituted the agency of this state for the
7 purposes of said act. The division shall establish and maintain
8 free public employment offices in such number and in such places
9 as may be necessary for the proper administration of this chapter
10 and for the purposes of performing such functions as are within
11 the purview of the Wagner-Peyser Act. To the extent allowed by
12 law, such departments, divisions, and agencies may contract with
13 private entities for the purpose of providing employment and
14 reemployment services.

15 288.290. 1. There is hereby established as a special fund,
16 separate and apart from all public moneys or funds of this state,
17 an "Unemployment Compensation Fund", which shall be administered
18 by the division exclusively for the purposes of this law. This
19 fund shall consist of:

20 (1) All contributions and payments in lieu of contributions
21 collected under this law;

22 (2) Interest earned upon any moneys in the fund;

23 (3) Any property or securities acquired through the use of
24 moneys belonging to the fund;

1 (4) All earnings of such property or securities;

2 (5) All voluntary contributions permitted under the law;

3 and

4 (6) All funds set aside or appropriated by the Congress of
5 the United States or any federal agency, to be deposited to the
6 fund. All moneys in the funds shall be mingled and undivided,
7 except that all money credited to this state's account in the
8 Unemployment Trust Fund pursuant to Section 903 of the Social
9 Security Act, as amended, and which has been appropriated for
10 expenses of administration, shall be used only for the purposes
11 set out in subsection 5 of this section and shall not be included
12 in the cash balance in the unemployment compensation fund for the
13 purposes of sections 288.100 and 288.113 to 288.126.

14 2. The director shall designate a treasurer and custodian
15 of the fund and he or she shall administer the fund and shall
16 issue his or her warrants upon it in accordance with such
17 regulations as the director shall prescribe. He or she shall
18 maintain within the fund three separate accounts:

19 (1) A clearing account;

20 (2) An unemployment trust fund account; and

21 (3) A benefit account.

22 To ensure that employment trust fund moneys are utilized only for
23 the purpose authorized no other fund shall be established with

1 increased employer taxes that are offset by a reduction of
2 unemployment contributions, except for the special employment
3 security fund created in section 288.310.

4 3. All moneys payable to the fund, upon their receipt by
5 the division, shall immediately be deposited in the clearing
6 account. Refunds of contributions or payments made necessary
7 under the provisions of sections 288.140 and 288.340 may be paid
8 from the clearing account or the benefit account. After
9 clearance, all moneys in the clearing account shall be
10 immediately deposited with the Secretary of the Treasury of the
11 United States of America to the credit of the account of this
12 state in the Unemployment Trust Fund, established and maintained
13 pursuant to Section 904 of the Social Security Act, as amended,
14 any provisions of law in this state relating to the deposit,
15 administration, release, or disbursement of state moneys in the
16 possession or custody of the state treasurer to the contrary
17 notwithstanding. The benefit account shall consist of all moneys
18 requisitioned from the Missouri account in the federal
19 Unemployment Trust Fund. Except as otherwise provided, moneys in
20 the clearing and benefit accounts may be deposited in any bank or
21 public depository in which general funds of the state may be
22 deposited, but no public deposit insurance charge or premium
23 shall be paid out of the fund. Moneys in the clearing and
24 benefit accounts shall not be commingled with other state funds

1 but shall be maintained in separate accounts on the books of the
2 depositary bank. All funds required by this law to be deposited
3 in any state depositary shall be secured by such depositary to
4 the same extent and in the same manner as is or may hereafter be
5 required by section 30.270, RSMo, and all the amendments thereto;
6 provided, that the division shall do those acts directed to be
7 done by the governor, attorney general and state treasurer, or
8 any of them, under section 30.270, RSMo, which are not
9 inconsistent with the other provisions of this law. Collateral
10 pledged for this purpose shall be kept separate and distinct from
11 any collateral pledged to secure other funds of the state, or, if
12 combined, shall be first used to satisfy and make whole the
13 accounts herein established. The treasurer shall give a separate
14 bond conditioned upon the faithful performance of his duties as
15 custodian of the fund in an amount not to exceed twenty-five
16 thousand dollars and in the form prescribed by law or approved by
17 the attorney general. Premiums for such bonds shall be paid from
18 the administration fund. All sums recovered for losses sustained
19 by the fund shall be deposited therein.

20 4. Moneys shall be requisitioned from the Missouri account
21 in the federal Unemployment Trust Fund solely for the payment of
22 benefits or for refunds of contributions or payments in lieu of
23 contributions in accordance with regulations prescribed by the
24 director, except that money credited to this state's account

1 pursuant to Section 903 of the Social Security Act, as amended,
2 shall be used exclusively as provided in subsection 5 of this
3 section. The director shall from time to time requisition from
4 the federal Unemployment Trust Fund such amounts, not exceeding
5 the amounts standing to the Missouri account therein, as he deems
6 necessary for the payment of benefits and refunds for a
7 reasonable future period. Upon its receipt the treasurer shall
8 deposit such money in the benefit account and shall issue his
9 warrants for the payment of benefits solely from such benefit
10 account. Expenditures of such moneys in the benefit account and
11 refunds from the clearing account shall not be subject to any
12 provisions of law requiring specific appropriations or other
13 formal release by state officers of moneys belonging to this
14 state in their custody. All warrants issued by the treasurer for
15 the payment of benefits and refunds shall bear the signature of
16 the treasurer and the countersignature of the director or other
17 duly authorized division representative. Any balance of moneys
18 requisitioned from the federal Unemployment Trust Fund which
19 remains unclaimed or unpaid in the benefit account after the
20 expiration of the period for which such sums were requisitioned
21 shall either be deducted from estimates for, and may be utilized
22 for the payment of, benefits during succeeding periods, or, in
23 the discretion of the director, shall be redeposited with the
24 Secretary of the Treasury of the United States of America to the

1 credit of the Missouri account in the federal Unemployment Trust
2 Fund as provided in subsection 3 of this section.

3 5. (1) Money credited to the account of this state in the
4 Unemployment Trust Fund by the Secretary of the Treasury of the
5 United States of America pursuant to Section 903 of the Social
6 Security Act, as amended, may be requisitioned and used for the
7 payment of expenses incurred for the administration of this law
8 pursuant to a specific appropriation by the legislature, provided
9 that the expenses are incurred and the money is requisitioned as
10 needed after the enactment of an appropriation law which:

11 (a) Specifies the purpose for which such money is
12 appropriated and the amounts appropriated therefor;

13 (b) Limits the period within which such money may be
14 obligated to a period ending not more than two years after the
15 date of the enactment of the appropriation law; and

16 (c) Limits the amount which may be obligated during a
17 twelve-month period beginning on July first and ending on the
18 next June thirtieth to an amount which does not exceed the amount
19 by which the aggregate of the amount transferred to the account
20 of this state in the Unemployment Trust Fund pursuant to
21 subsections (a) and (b) of Section 903 of the Social Security
22 Act, as amended, exceeds the aggregate of the amounts used by
23 this state pursuant to this subsection and charged against the
24 amounts transferred to the account of this state in the

1 Unemployment Trust Fund.

2 (2) The use of the money referred to in subdivision (1) of
3 this subsection shall be accounted for in accordance with
4 standards established by the Secretary of Labor.

5 (3) For purposes of subdivision (1) of this subsection,
6 amounts used by this state for administration shall be chargeable
7 against transferred amounts at the exact time the obligation is
8 entered into.

9 (4) Money credited to the account of this state pursuant to
10 Section 903 of the Social Security Act, as amended, may not be
11 withdrawn or used except for the payment of benefits and for the
12 payment of expenses for the administration of this law and of
13 public employment offices pursuant to this subsection.

14 (5) Money appropriated as provided under subdivision (1) of
15 this subsection for the payment of expenses of administration
16 shall be requisitioned as needed for the payment of obligations
17 incurred under such appropriation and, upon requisition, shall be
18 deposited in the unemployment compensation administration fund
19 from which such payments shall be made. Money so deposited
20 shall, until expended, remain a part of the unemployment
21 compensation fund and, if it will not be expended, shall be
22 returned promptly to the account of this state in the
23 Unemployment Trust Fund.

24 (6) Money credited to the account of the state in the

1 federal Unemployment Trust Fund by the Secretary of the Treasury
2 of the United States of America pursuant to Title 42, Section 903
3 of the Social Security Act with respect to the federal fiscal
4 years 1999, 2000 and 2001, shall be used solely for the
5 administration of the unemployment compensation program.

6 6. The provisions of subsections 1, 2, 3, 4, and 5 of this
7 section, to the extent that they relate to the federal
8 Unemployment Trust Fund, shall be operative only so long as such
9 federal Unemployment Trust Fund continues to exist and so long as
10 the Secretary of the Treasury of the United States of America
11 continues to maintain a separate book account of all funds
12 deposited therein by contributions from employers of this state
13 for benefit purposes, and by money credited pursuant to Section
14 903 of the Social Security Act, as amended, together with a
15 proportionate share of the earnings apportioned to the Missouri
16 account of such federal Unemployment Trust Fund, from which no
17 other state is permitted to make or authorize withdrawals. If
18 and when such Unemployment Trust Fund ceases to exist, or such
19 separate book account is no longer maintained, all moneys,
20 properties, or securities therein belonging to the unemployment
21 compensation fund of this state shall be transferred to the
22 treasurer of the unemployment compensation fund, who shall hold,
23 invest, transfer, sell, deposit, and release such moneys,
24 properties or securities in a manner approved by the director in

1 accordance with the provisions of this law; provided, that such
2 moneys shall be invested in the following readily marketable
3 classes of securities: bonds or other interest-bearing
4 obligations of the United States of America, or securities on
5 which the payment of principal and interest are guaranteed by the
6 United States of America, and bonds or other interest-bearing
7 obligations of the state of Missouri; and provided, further, that
8 such investments shall at all times be so made that all the
9 assets of the fund shall always be readily convertible into cash
10 when needed for the payment of benefits. The treasurer shall
11 dispose of securities or other properties belonging to the
12 unemployment compensation fund only under the direction of the
13 director.

14 7. Notwithstanding any other provision of this law, any
15 interest or penalties found to have been erroneously collected
16 and which is ordered to be refunded shall, if paid into the
17 unemployment compensation fund, be refunded out of the
18 unemployment compensation fund and, if paid into the special
19 employment security fund, shall be refunded out of the special
20 employment security fund; except that, in the event any interest
21 and penalties paid into the unemployment compensation fund shall
22 be transferred to the special employment security fund, the
23 refund of any such interest and penalties shall be made from the
24 special employment security fund.

1 288.310. 1. There is hereby created in the state treasury
2 a special fund to be known as the "Special Employment Security
3 Fund". All interest and penalties collected under the provisions
4 of this law, including moneys collected pursuant to section
5 288.128 for the payment of interest due on federal advances
6 received pursuant to section 288.330, or if the fund is not
7 utilizing moneys advanced by the federal government, then the
8 payment of principal, interest, and administrative expenses
9 related to bonds issued under section 288.330, or the payment of
10 the principal, interest, and administrative expenses related to
11 financial agreements under subdivision (17) of subsection 2 of
12 section 288.330, or the payment of the principal, interest, and
13 administrative expenses related to a combination of bonds and
14 financial agreements shall be paid into this fund. The moneys
15 collected pursuant to section 288.128 shall be used [exclusively]
16 for the payment of interest due on federal advances received
17 pursuant to section 288.330, or if the fund is not utilizing
18 moneys advanced by the federal government the payment of
19 principal, interest, and administrative expenses related to bonds
20 issued under that section, or the payment of principal, interest,
21 and administrative expenses related to financial agreements under
22 subdivision (17) of subsection 2 of section 288.330, or the
23 payment of the principal, interest, and administrative expenses
24 related to a combination of bonds and financial agreements. Such

1 moneys, except for moneys collected pursuant to section 288.128,
2 shall not be expended or available for expenditure in any manner
3 which would permit their substitution for, or a corresponding
4 reduction in, federal funds which would in the absence of such
5 money be available to finance expenditures for the administration
6 of the employment security law, but nothing in this section shall
7 prevent such moneys, except for moneys collected pursuant to
8 section 288.128, from being used as a revolving fund, to cover
9 expenditures, necessary and proper under the law, for which
10 federal funds have been duly requested but not yet received,
11 subject to the charging of such expenditures against such funds
12 when received. Subject to the approval of the director of the
13 department of labor and industrial relations, the moneys in this
14 fund, except for moneys collected pursuant to section 288.128,
15 shall be used by the department of labor and industrial relations
16 for the payment of costs of administration which are found not to
17 have been properly and validly chargeable against federal grants
18 or other funds received for or in the unemployment compensation
19 administration fund. Such moneys, except for moneys collected
20 pursuant to section 288.128, shall be available either to satisfy
21 the obligations incurred by the department of labor and
22 industrial relations for the division directly or by requesting
23 the board of fund commissioners to transfer the required amount
24 from the special employment security fund to the unemployment

1 compensation administration fund. The board of fund
2 commissioners shall upon receipt of a written request of the
3 department of labor and industrial relations make any such
4 transfer. No expenditures of this fund or transfer herein
5 provided, except for moneys collected pursuant to section
6 288.128, shall be made unless and until the director of the
7 department of labor and industrial relations finds that no other
8 funds are available or can properly be used to finance such
9 expenditures, except that as hereinafter authorized expenditures
10 from such fund may be made for the purpose of acquiring lands and
11 buildings, or for the erection of buildings on lands so acquired,
12 which are deemed necessary by the director of the department of
13 labor and industrial relations for the proper administration of
14 this law. The director of the department of labor and industrial
15 relations shall order the transfer of such funds or the payment
16 of any such obligation and such funds shall be paid by the state
17 treasurer on requisitions drawn by the director of the department
18 of labor and industrial relations directing the state auditor to
19 issue his or her warrant therefor. Any such warrant shall be
20 drawn by the state auditor based upon bills of particulars and
21 vouchers certified by an officer or employee designated by the
22 director of the department of labor and industrial relations.
23 Such certification shall among other things include a duly
24 certified copy of the director of the department of labor and

1 industrial relations' findings hereinbefore referred to. The
2 moneys in this fund, except for moneys collected pursuant to
3 section 288.128, are hereby specifically made available to
4 replace, within a reasonable time, any moneys received by this
5 state pursuant to section 302 of the Federal Social Security Act
6 (42 U.S.C.A. Sec. 502), as amended, which, because of any action
7 or contingency, have been lost or have been expended for purposes
8 other than, or in amounts in excess of, those necessary for the
9 proper administration of the employment security law. The moneys
10 in this fund shall be continuously available to the director of
11 the department of labor and industrial relations for expenditure
12 in accordance with the provisions of this section and shall not
13 lapse at any time or be transferred to any other fund except as
14 herein provided.

15 2. The director of the department of labor and industrial
16 relations, subject to the approval of the board of public
17 buildings, is authorized and empowered to use all or any part of
18 the funds in the special employment security fund, except for
19 moneys collected pursuant to section 288.128, for the purpose of
20 acquiring suitable office space for the division by way of
21 purchase, lease, contract or in any other manner, including the
22 right to use such funds or any part thereof to purchase land and
23 erect thereon such buildings as he or she shall deem necessary or
24 to assist in financing the construction of any building erected

1 by the state of Missouri or any of its agencies wherein available
2 space will be provided for the division under lease or contract
3 between the department of labor and industrial relations and the
4 state of Missouri or such other agency. The director of the
5 department of labor and industrial relations may transfer from
6 the unemployment compensation administration fund to the special
7 employment security fund amounts not exceeding funds specifically
8 available to the department of labor and industrial relations for
9 that purpose, equivalent to the fair reasonable rental value of
10 any land and buildings acquired for its use until such time as
11 the full amount of the purchase price of such land and buildings
12 and such cost of repair and maintenance thereof as was expended
13 from the special employment security fund has been returned to
14 such fund.

15 3. The director of the department of labor and industrial
16 relations may also transfer from the unemployment compensation
17 administration fund to the special employment security fund
18 amounts not exceeding funds specifically available to the
19 department of labor and industrial relations for that purpose,
20 equivalent to the fair reasonable rental value of space used by
21 the department of labor and industrial relations in any building
22 erected by the state of Missouri or any of its agencies until
23 such time as the department of labor and industrial relations'
24 proportionate amount of the purchase price of such building and

1 the department of labor and industrial relations' proportionate
2 amount of such costs of repair and maintenance thereof as was
3 expended from the special employment security fund has been
4 returned to such fund.

5 288.330. 1. Benefits shall be deemed to be due and payable
6 only to the extent that moneys are available to the credit of the
7 unemployment compensation fund and neither the state nor the
8 division shall be liable for any amount in excess of such sums.
9 [Neither the state of Missouri, nor any person or agency acting
10 for it, may under any circumstance, by issuing bonds or otherwise
11 borrow money from any source whatsoever to pay benefits
12 hereunder, except as provided in 42 U.S.C.A. Section 1321.] The
13 governor is authorized to apply for an advance to the state
14 unemployment fund and to accept the responsibility for the
15 repayment of such advance [in accordance with the conditions
16 specified in Title XII of the Social Security Act, as amended,]
17 in order to secure to this state and its citizens the advantages
18 available under the provisions of [such title] federal law. In
19 the event the fund balance including any outstanding loans or
20 indebtedness is greater than or equal to zero and the governor
21 applies for an advance as provided in 42 U.S.C. Section 1321 or
22 the state is required to incur other indebtedness as authorized
23 in this chapter in order to maintain funding for the payment of
24 benefits as authorized by this chapter, the state of Missouri

1 shall be obligated to pay the interest incurred as a result of
2 such advance or indebtedness.

3 2. (1) The purpose of this subsection is to provide a
4 method of financing the replenishment of the state's unemployment
5 compensation fund as an alternative to borrowing or obtaining
6 advances from the federal unemployment trust fund or for
7 refinancing those loans or advances, and to provide a method
8 through which the state may continue its unemployment
9 compensation program at the least possible cost to the state and
10 its employers.

11 (2) For the purposes of this subsection, "bond" means any
12 type of obligation issued under this section, including any bond,
13 note, tax anticipation note or similar instrument.

14 (3) There is hereby created for the purposes of
15 implementing the provisions of this subsection a body corporate
16 and politic to be known as the "Missouri Commission on Employment
17 Security Financing". The powers of the commission shall be
18 vested in seven commissioners who shall be residents of this
19 state and be appointed by the governor with the advice and
20 consent of the senate except that the director of the division of
21 employment security shall serve as a nonvoting ex officio member
22 of the commission. The commission shall have all powers
23 necessary to effectuate its purposes including without limitation
24 the power to provide a seal, keep records of its proceedings,

1 provide for professional services, and elect a chair from its
2 members. Not more than four of the commissioners shall be of the
3 same political party.

4 (a) The commissioners shall serve five-year terms with each
5 term beginning July first and ending on June thirtieth, except
6 that of the commissioners first appointed one shall be appointed
7 for a term of two years, two shall be appointed for a term of
8 three years, two shall be appointed for a term of four years, and
9 two shall be appointed for a term of five years. Each
10 commissioner appointed thereafter shall be appointed for a term
11 ending five years from the date of expiration of the term for
12 which his or her predecessor was appointed, except that a person
13 appointed to fill a vacancy prior to the expiration of such a
14 term shall be appointed for the remainder of the term. No
15 commissioner appointed under this subsection by the governor
16 shall serve more than two consecutive full terms. Each
17 commissioner shall hold office for the term of his or her
18 appointment and until his or her successor is appointed and
19 qualified.

20 (b) Notwithstanding the provisions of any other law to the
21 contrary:

22 a. No officer or employee of this state shall be deemed to
23 have forfeited or shall forfeit his or her office or employment
24 by reason of his or her acceptance of an appointment as a

1 commissioner to the commission or for his or her service to the
2 commission;

3 b. It shall not constitute a conflict of interest for a
4 director, officer, or employee of any financial institution,
5 investment banking firm, brokerage firm, commercial bank or trust
6 company, architectural firm, insurance company, or any other
7 firm, person, or corporation, to serve as a commissioner of the
8 commission, provided such trustee, director, officer, or employee
9 shall abstain from deliberation, action, and vote by the
10 commission in each instance where the business affiliation or
11 public office association of any such trustee, director, officer,
12 or employee is involved.

13 (c) Before entering into his or her duties each
14 commissioner shall execute a surety bond in the sum of fifty
15 thousand dollars, or in lieu thereof the chair of the commission
16 may execute a blanket bond covering all members of the commission
17 with each surety bond to be conditioned upon the faithful
18 performance of the duties of the office or offices covered and to
19 be executed by a surety company authorized to transact business
20 in this state as a surety and to be approved by the attorney
21 general and filed in the office of the secretary of state. The
22 cost of each such bond shall be paid by the commission.

23 (d) Commissioners shall receive no compensation for the
24 performance of their duties under this subsection, but each

1 commissioner shall be reimbursed from the funds of the commission
2 for his or her actual and necessary expenses incurred in carrying
3 out his or her official duties under this subsection.

4 (e) In the event that any of the commissioners or officers
5 of the commission whose signatures or facsimile signatures appear
6 on any bonds shall cease to be commissioners or officers before
7 the delivery of such bonds, their signatures or facsimile
8 signatures shall be valid and sufficient for all purposes as if
9 such commissioners or officers had remained in office until
10 delivery of such bonds.

11 (f) The commissioners executing the bonds of the commission
12 shall not be subject to any personal liability or accountability
13 by reason of the issuance of the bonds.

14 (g) The commission shall following the close of each fiscal
15 year submit an annual report of its activities for the preceding
16 year to the governor and the general assembly. Each report shall
17 set forth a complete operating and financial statement for the
18 commission during the fiscal year it covers. At least once in
19 each year an independent certified public accountant shall audit
20 the records and accounts of the commission.

21 (4) The commission is authorized to issue, sell, and
22 deliver bonds which shall mature no later than ten years after
23 issuance in the name of the commission in an amount determined by
24 the commission not to exceed a total of four hundred fifty

1 million dollars of indebtedness that results in reducing or
2 avoiding the need to borrow or obtain an advance under 42 U.S.C.,
3 Section 1321, or any similar federal legislation, or in an amount
4 necessary to refinance any borrowing or advance previously made
5 by the state for those purposes. The commission shall make an
6 affirmative finding that the issuance of bonds for the purposes
7 established in this section results in a savings to the state and
8 its employers.

9 (5) The commission shall provide for the payment of the
10 principal of the bonds, any redemption premiums, the interest on
11 the bonds, and the costs attributable to the bonds being issued
12 or outstanding as provided in this subsection and in section
13 288.310. Unless the commission directs otherwise, the bonds
14 shall be repaid in the same time frame and in the same amounts as
15 would be required for loans issued pursuant to 42 U.S.C. Section
16 1321; however, in no case shall bond indebtedness continue beyond
17 five consecutive years.

18 (6) The commission may irrevocably pledge money received
19 from the contributions received under section 288.128 as revenue
20 for the payment of bonds and deposited in an account created for
21 such purpose in the special employment security fund or other
22 money legally available to it.

23 (7) Bonds issued under this section shall not constitute
24 debts of this state or of any agency, political corporation, or

1 political subdivision of this state and are not a pledge of the
2 faith and credit of this state or of any of those governmental
3 entities. The bonds are payable only from revenue provided for
4 under this chapter. The bonds shall contain a statement to the
5 effect that:

6 (a) Neither the state nor any agency, political
7 corporation, or political subdivision of the state shall be
8 obligated to pay the principal or interest on the bonds except as
9 provided by this section; and

10 (b) Neither the full faith and credit nor the taxing power
11 of the state nor any agency, political corporation, or political
12 subdivision of the state is pledged to the payment of the
13 principal, premium, if any, or interest on the bonds except as
14 provided by this section.

15 (8) The owner of any bonds issued under this section shall
16 at the time of purchase agree to waive any right of recovery and
17 forever hold harmless the state and any agency, political
18 corporation, or political subdivision thereof. The bond owner
19 shall agree the sole source of revenue for repayment of such
20 bonds shall be those revenues derived from contributions received
21 under section 288.128.

22 (9) The state pledges and agrees with the owners of any
23 bonds issued under this section that the state will not limit or
24 alter the rights vested in the commission to fulfill the terms of

1 any agreements made with the owners or in any way impair the
2 rights and remedies of the owners until the bonds are fully
3 discharged except as provided by this section.

4 (10) The commission may provide for the flow of funds and
5 the establishment and maintenance of separate accounts within the
6 special employment security fund, including the interest and
7 sinking account, the reserve account, and other necessary
8 accounts, and may make additional covenants with respect to the
9 bonds in the documents authorizing the issuance of bonds
10 including refunding bonds. The resolutions authorizing the
11 issuance of bonds may also prohibit the further issuance of bonds
12 or other obligations payable from appropriated moneys or may
13 reserve the right to issue additional bonds to be payable from
14 appropriated moneys on a parity with or subordinate to the lien
15 and pledge in support of the bonds being issued and may contain
16 other provisions and covenants as determined by the commission.

17 (11) The commission may issue bonds to refund all or any
18 part of the outstanding bonds issued under this section including
19 matured but unpaid interest.

20 (12) The bonds issued by the commission, any transaction
21 relating to the bonds, and profits made from the sale of the
22 bonds are free from taxation by the state or by any municipality,
23 court, special district, or other political subdivision of the
24 state.

1 (13) As determined necessary by the commission the proceeds
2 of the bonds less the cost of issuance shall be placed in the
3 state's unemployment compensation fund and may be used for the
4 purposes for which that fund may otherwise be used. If those net
5 proceeds are not placed immediately in the unemployment
6 compensation fund they shall be held in the special employment
7 security fund in an account designated for that purpose until
8 they are transferred to the unemployment compensation fund.

9 (14) The commission may enter into any contract or
10 agreement deemed necessary or desirable to effectuate cost
11 effective financing hereunder. Such agreements may include
12 credit enhancement, credit support, or interest rate agreements.
13 Any fees or costs associated with such agreements shall be deemed
14 administrative expenses for the purposes of calculating
15 assessments relating to payment of the principal, interest, and
16 administrative expenses related to bonds pursuant to the
17 provisions of section 288.128.

18 (15) To the extent this section conflicts with other laws
19 the provisions of this section prevail. This section shall not
20 be subject to the provisions of sections 23.250 to 23.298, RSMo.

21 (16) If the United States Secretary of Labor holds that a
22 provision of this subsection does not conform with a federal
23 statute or would result in the loss to the state of any federal
24 funds otherwise available to it the commission may administer

1 this subsection to conform with the federal statute until the
2 general assembly meets in its next regular session and has an
3 opportunity to amend this subsection.

4 (17) (a) As used in this subdivision the term "lender"
5 means any state or national bank.

6 (b) The commission is authorized to enter financial
7 agreements with any lender that result in reducing or avoiding
8 the need to borrow or obtain an advance under 42 U.S.C., Section
9 1321, or any similar federal legislation. The total amount of
10 the outstanding obligation under the agreement shall not exceed
11 the difference of four hundred fifty million dollars and the bond
12 indebtedness incurred under this subsection. In no instance
13 shall such indebtedness under any financial agreement continue
14 for more than five consecutive years. Repayment of obligations
15 to lenders shall be made from the special employment security
16 fund, section 288.310.

17 3. In event of the suspension of this law, any unobligated
18 funds in the unemployment compensation fund, and returned by the
19 United States Treasurer because such Federal Social Security Act
20 is inoperative, shall be held in custody by the treasurer and
21 under supervision of the division until the legislature shall
22 provide for the disposition thereof. In event no disposition is
23 made by the legislature at the next regular meeting subsequent to
24 suspension of said law, then all unobligated funds shall be

1 returned ratably to those who contributed thereto.

2 288.385. 1. Except as otherwise specifically provided by
3 law, it shall be unlawful for the director of the division of
4 employment security, any officer, employee, agent or deputy or
5 former director, officer, employee, agent or deputy of the
6 division of employment security, any person engaged or retained
7 by the division of employment security on an independent contract
8 basis, any person to whom authorized or unauthorized disclosure
9 is made by the division of employment security, or any person who
10 lawfully or unlawfully inspects any report or return filed with
11 the division of employment security or to whom a copy, an
12 abstract or a portion of any report or return is furnished by the
13 division of employment security to make known in any manner, to
14 permit the inspection or use of or to divulge to anyone any
15 information relative to any such report or return, any
16 information obtained by an investigation conducted by the
17 department in the discharge of an official duty, or any
18 information received by the director in cooperation with the
19 United States or other states in the enforcement of the
20 employment laws of this state. Such confidential information is
21 limited to information received by the division in connection
22 with the administration of the employment security laws of this
23 state.

24 2. Nothing in this section shall be construed to prohibit

1 the disclosure of information, returns, reports, or facts shown
2 thereby, as described in subsection 1 of this section, by any
3 officer, clerk or other employee of the division of employment
4 security charged with the custody of such information:

5 (1) To an employee or the employee's duly authorized
6 representative under regulations which the director of the
7 division of employment security may prescribe; or

8 (2) In any action or proceeding, civil, criminal or mixed,
9 brought to enforce the employment security laws of this state.

10 3. Any person violating any provision of subsection 1 or 2
11 of this section shall, upon conviction, be guilty of a class D
12 felony.

13 4. The department of labor and industrial relations by and
14 through the division may analyze and project financial data for
15 proposed legislation. In doing so the department and the
16 division shall provide any financial data, projections, or models
17 relating to pending legislation to the sponsor or sponsors of
18 such legislation at least forty-eight hours prior to making such
19 information public. Failure to comply with this subsection shall
20 result in a five hundred dollar civil penalty per violation
21 levied against the agent or employee of the department or
22 division responsible for such violation.

23 288.395. Any person or entity perpetrating a fraud or
24 misrepresentation under this chapter for which a penalty has not

1 herein been specifically provided, shall be guilty of a class A
2 misdemeanor and, in addition, shall be liable to this state for a
3 civil penalty not to exceed double the value of the fraud. Any
4 person or entity who has previously pled guilty to or has been
5 found guilty of perpetrating a fraud or misrepresentation under
6 this chapter and who subsequently violated any such provisions
7 shall be guilty of a class D felony.

8 288.396. The department of labor and industrial relations
9 may contract with a private entity for the purpose of identifying
10 and recovering overpayments to employees and collection of
11 delinquent employer contributions.

12 288.397. The division shall send on or before September 30,
13 2004, to all employing units a report containing a summary of
14 changes enacted in this act including but not limited to changes
15 in the tax rate, contribution rate, taxable wage base, temporary
16 solvency charges, benefit or eligibility charges, and other
17 pertinent information to enable the employing units to comply
18 with the changes made.

19 Section B. Because immediate action is necessary to reduce
20 or avoid the need to borrow or obtain advances under 42 U.S.C.,
21 Section 1321, section A of this act is deemed necessary for the
22 immediate preservation of the public health, welfare, peace, and
23 safety, and is hereby declared to be an emergency act within the
24 meaning of the constitution, and section A of this act shall be

1 in full force and effect upon its passage and approval.